

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNDERWATER ALERT SYSTEM LLC, an)	
Illinois limited liability company)	
)	
Plaintiff,)	
)	
v.)	No.
)	
TABATA CO., LTD, d/b/a TUSA)	
)	
Defendant.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Underwater Alert System LLC (“UAS”), through its attorney, Matthew Wawrzyn and Isaac Rabicoff, complains of Defendant Tabata Co., Ltd., d/b/a TUSA (“Tabata”) as follows:

THE PARTIES

1. Plaintiff Underwater Alert System LLC is an Illinois limited liability company.
2. Tabata is a Japanese corporation with its U.S.-based headquarters (called “TUSA” in the US) in Long Beach, California. Tabata manufactures and markets underwater diving products worldwide, including those products accused of infringement in this suit.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.
4. UAS is the owner of all right, title, and interest in United States Patent No. RE42,218, entitled “Underwater Alert System” (“the ‘218 patent”), and, thus, has standing to sue

for infringement of this patent. A true and correct copy of the '218 patent is attached hereto as Exhibit A.

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Tabata because it does and has done substantial business in this judicial district, including transacting business in this judicial district, at least by offering to sell, selling and/or advertising infringing dive computer products in such a way as to reach customers in Illinois and this judicial district through authorized dealers located in this judicial district, such as Underwater Safaris in Chicago, IL; Scuba Sensations in Chicago, IL; and D.D. Dive Shop in Glenview, IL.

7. Tabata diving products are also marketed and sold via the Internet through the websites www.tusa.com, as well as other third party websites such as www.amazon.com, www.leisurepro.com, and shopping.google.com.

8. Tabata has, consequently, committed acts of infringement in this judicial district.

9. Venue is proper in this district under 28 U.S.C. §§ 1391(b)-(d) and 1400(b) because a substantial part of the events giving rise to the claims occurred in this judicial District, and Tabata has committed acts of infringement in this District.

BACKGROUND FACTS

10. Daniel J. Magine is the inventor on the '218 patent, entitled "Underwater Alert System," which issued on March 15, 2011. The '218 patent is a reissue patent of U.S. Patent No. 6,856,578 ("the '578 patent"). The '218 patent includes claims that are identical to claims that were originally found in the '578 patent.

11. The '218 Patent generally describes and claims, among other things, a system that allows one diver to monitor the tank pressure of another diver using wireless signaling technology. This includes claiming and describing an underwater alert system, where one diver

carries a transmitter that wirelessly transmits dive computer data about that diver's equipment to a receiver carried by another diver. (See, for example, claim 173 of Exhibit A).

COUNT I: INFRINGEMENT OF U.S. PATENT NO. RE42,218

12. UAS realleges and incorporates by reference the above paragraphs of this Complaint, inclusive, as though fully set forth herein.

13. Tabata has infringed and continues to infringe, literally and/or under the doctrine of equivalents, at least claims 140, 141, 166, 173, 175-180, 231-233, 236, 238-240 of the '218 patent in violation of 35 U.S.C. § 271(a) through, among other activities, the manufacture, use, sale, importation and/or offer for sale of infringing dive computer products, including but not limited to the Zen Air IQ-950 with transmitter dive computers (the "Accused Products"). Tabata has carried out these activities throughout the United States, including within this judicial district.

14. Tabata also has and continues to indirectly infringe one or more claims of the asserted patents by inducing others to infringe, including merchants and end-users of its infringing dive computers. Specifically, Tabata has actively induced, and continues to induce, the infringement of one or more claims of the '218 Patent at least by actively inducing the infringing use of its dive computers by its customers, including merchants and end-users in the United States. Tabata knew or should have known that its conduct of advertising and instructing would induce others to use its dive computers in a manner that infringes the '218 Patent.

15. UAS has complied with the provisions of 35 U.S.C. § 287 to the extent they are applicable.

16. Tabata's infringement has injured UAS and it is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty, together with interest and costs.

WHEREFORE, Plaintiff Underwater Alert System LLC respectfully asks this Court to enter judgment against Defendant Tabata for infringement and against its respective subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, employees, and all persons in active concert or participation with it, granting the following relief:

A. Tabata has infringed and is infringing one or more claims of the '218 Patent;

B. Tabata accounts to UAS for damages adequate to compensate for Tabata's infringement of the '218 Patent and that such damages be awarded to UAS, including pre-judgment and post-judgment interest;

C. This case be adjudged an exceptional case pursuant to 35 U.S.C. § 285 and that the Court award UAS its expenses and attorneys' fees incurred in bringing and prosecuting this action; and

D. UAS be awarded such further and additional relief as the Court deems just and proper.

JURY DEMAND

Under Rule 38(b) of the Federal Rules of Civil Procedure, UAS respectfully request a trial by jury.

Respectfully submitted,

Date: November 30, 2015

/s/ Isaac Rabicoff

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